



Susana Martinez, Governor
Brent Earnest, Secretary
Nancy Smith-Leslie, Director

TO: All Interested Parties

FROM: *NLS* Nancy Smith Leslie, Director

CC: Cathy Stevenson, Director, Department of Health (DOH), Developmental Disabilities Supports Division (DDSD)

DATE: August 19, 2016

RE: Medicaid Home and Community-Based Services Settings Statewide Transition Plan Amendment

The State of New Mexico Human Services Department (HSD) through the Medical Assistance Division (MAD) is accepting written and recorded comments for a period of 30 calendar days ending September 19, 2016 regarding the State of New Mexico's amended Home and Community Based Services (HCBS) Waiver Settings Statewide Transition Plan (STP).

New Mexico's STP includes the following HCBS waiver programs: Developmental Disabilities (DD) waiver, Mi Via waiver, Medically Fragile waiver, and Centennial Care section 1115 waiver. Amendments to the STP are required in order to support the State's efforts to bring specific waiver programs related to HCBS into compliance with the Centers for Medicare and Medicaid Services (CMS) Final Rule 2249-F/2296-F. CMS published the Final Rule on January 16, 2014 with an effective date of March 17, 2014. States must achieve full compliance by March 17, 2019.

BACKGROUND

The CMS Final Rule addresses several sections of the Social Security Act and makes changes to Medicaid HCBS waiver programs. The Final Rule establishes requirements for HCBS settings under the 1915(c), 1915(i), 1915(k), and 1115 Medicaid authorities, and person-centered planning for Medicaid HCBS waiver participants under 1915(c) and 1915(i). In addition, it clarifies the timing of amendments and public input requirements when states propose modifications to HCBS waiver programs.

The Final Rule requires that any residential and non-residential setting where individuals live and/or receive HCBS must include the following qualities:

1. Are integrated in and support access to the greater community;
2. Are selected by the individual from among all settings options including non-disability specific settings and options for a private unit in a residential setting;
3. Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
4. Optimize individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and with whom to interact, and;
5. Facilitate choice regarding services and who provides them.

New Mexico submitted its initial STP to CMS on November 14, 2014 for the Mi Via waiver, followed by another STP submission on January 5, 2015 for the DD waiver. Based upon additional guidance provided by CMS, New Mexico revised its approach to validating responses to the provider self-assessment and incorporated specific timelines and approaches and included certain Centennial Care services in the STP. New Mexico submitted an amended STP to CMS on March 17, 2015 to address the Mi Via and DD waivers, followed by an amended STP to CMS on June 2, 2015 to address Centennial Care services.

CMS provided further guidance in March 2016, requesting clarification on New Mexico's systemic assessment process, heightened scrutiny (i.e. CMS review process to determine if a setting has qualities of an institution), beneficiary relocation, and ongoing monitoring. Furthermore, CMS requested that the Medically Fragile waiver be included in the STP.

PROPOSED MODIFICATIONS TO THE STATEWIDE TRANSITION PLAN (STP)

New Mexico plans to submit its amended STP to CMS by September 30, 2016. The key components of proposed changes to the STP are as follows:

1. Incorporate and address overall comments from CMS regarding the systemic assessment process, heightened scrutiny, beneficiary relocation, and ongoing monitoring.
2. Addition of the Medically Fragile Waiver to the STP.

WRITTEN OR RECORDED COMMENT AND PUBLIC TESTIMONY OPPORTUNITIES

HSD has issued this public notice to accept written and recorded comments and public testimony regarding the proposed amended STP. This notice, the proposed amended STP, and other information can be found on the HSD webpage:

<http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>

The federal regulation is available on the CMS webpage at:

<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html>

IMPORTANT DATES

- A public hearing will be held on **Monday, September 19, 2016 from 10 a.m. - 11 a.m.** at the Toney Anaya building, Rio Grande conference room, 2550 Cerrillos Road, Santa Fe, New Mexico.
- Written comments must be submitted by **5:00 p.m. Mountain Daylight Time on Monday, September 19, 2016.**
- Written comments may be submitted by mail, phone, or email:
 - Mail: Melanie Buenviaje, Human Services Department
Medical Assistance Division
Exempt Services & Programs Bureau
P.O. Box 2348
Santa Fe, New Mexico 87504
 - Recorded message: (505) 827-1348
 - Email: madrules@state.nm.us